

REMARKS

Claims 1-29 were presented for examination in the present application. The instant amendment cancels claims 2-4, 9-10, 14, and 27 without prejudice. Thus, claims 1, 5-8, 11-13, 15-26, and 28-29 are presented for consideration upon entry of the instant amendment.

Claims 1 and 8 are independent.

The specification was objected to for failing to define the "y" in the formula $Ti_xAl_{1-x}O_y$. The specification has been amended to recite that in "the embodiment illustrated in Figure 1, the y is equal to 2". Support for this amendment can be found at least in Figure 1. No new matter is added. Applicants submit that this amendment obviates the objection to the specification. Reconsideration and withdrawal of the objection to the specification are respectfully requested.

Applicants note with appreciation the indication of allowable subject matter in claims 4 and 10.

Claim 1 has been amended to include elements of claim 4, as well as intervening claims 2 and 3. Claims 2-4 have been cancelled. Claims 5 and 6 have been amended to depend from claim 1 and, not cancelled claims 3 and 2, respectively.

Regarding the rejection under 35 U.S.C. §112, second paragraph, claims 1 and 6 have been amended to remove the rejected "high thermal stability" and "optically inactive" elements, respectively. Further, claim 14 has been cancelled, while claim 15 has been amended to depend from claim 1 and, not cancelled claim 14. Applicants submit that these amendments obviate the rejections to claims.

Accordingly, Applicants submit that claim 1, as well as claims 5-7, 15-26, and 28-29 that depend therefrom are in condition for allowance.

Claim 8 has been amended to include elements of claim 10, as well as intervening claim 9. Claims 9-10 have been cancelled. Claim 9 has been amended to depend from claim 8 and, not cancelled claim 9.

Regarding the rejection under 35 U.S.C. §112, second paragraph, claims 8 and 12 have been amended to remove the rejected "high thermal stability" and "optically inactive" elements. Further, claim 27 has been cancelled. Applicants submit that these amendments obviate the rejections to claims.

Accordingly, Applicants submit that claim 8, as well as claims 11-13 and 27 that depend therefrom are in condition for allowance.

Claims 1-29 were provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 16-19 and 21-24 of co-pending U.S. Application Serial No. 10/527,499 (the '499 application).

Applicants respectfully traverse this rejection.

The present application and the '499 application were filed on the same day, namely both applications have an earliest claimed priority date of September 14, 2002.

The provisional nonstatutory obviousness-type double patenting is the only rejection remaining in the present application. However, the '499 application is rejectable on other grounds as evidenced by the non-final Office Action dated October 8, 2008 presently outstanding in the '499 application.

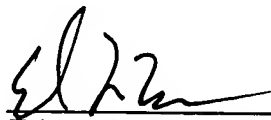
In view of the above, Applicants request the examiner withdraw the provisional nonstatutory obviousness-type double patenting rejection in the present application and permit the present application to issue as a patent without a terminal disclaimer, while maintaining the provisional nonstatutory obviousness-type double patenting rejection in the '499 application. See Manual of Patent Examining Procedure Section 804(B)(1).

In view of the above, it is respectfully submitted that the present application is in condition for issuance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

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